

**UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

Milton O. Crawford,

Plaintiff,

VS.

Smith's Food and Drug Centers, Inc., *et al.*,

Defendants.

Case No.: 2:12-cv-0122-GMN-GWF

## ORDER

By notice entered January 12, 2017, the U.S. Court of Appeals for the Ninth Circuit referred this matter to the District Court for the limited purpose of determining whether *in forma pauperis* status should continue for this appeal or whether the appeal is frivolous or taken in bad faith. *See* 28 U.S.C. § 1915(a)(3); *see also Hooker v. American Airlines*, 302 F.3d 1091, 1092 (9th Cir. 2002) (revocation of *in forma pauperis* status appropriate where the District Court finds the appeal to be frivolous).

Here, Plaintiff appeals the Court’s Order denying his Motion for Leave to File a Motion for New Trial pursuant to Federal Rule of Civil Procedure 59 (“FRCP 59”). As stated in the Court’s previous Order, (ECF No. 275), Plaintiff filed his motion over two years after the entry of judgment, and therefore a motion brought under FRCP 59 would be untimely. Accordingly, the record clearly shows that Plaintiff’s appeal lacks any legal or factual basis.

**IT IS THEREFORE ORDERED** that the Court certifies that Plaintiff's appeal is frivolous pursuant to 28 U.S.C. § 1915(a)(3). Plaintiff's *in forma pauperis* status is revoked for purposes of this appeal.

**DATED** this 31 day of January, 2017.

Gloria M. Navarro, Chief Judge  
United States District Court